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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,490	10/16/2003	Robert M. Schurter	010121-9897	9034
23409	7590	08/20/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			WAKS, JOSEPH	
			ART UNIT	PAPER NUMBER
			2834	
DATE MAILED: 08/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

OK

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,490	<b>Applicant(s)</b> SCHURTER ET AL.	
	<b>Examiner</b> Joseph Waks	<b>Art Unit</b> 2834	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-24, 26-28, 32 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 25, 29-31, 33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the first and the second distal edge.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 recites the limitation "the support member" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

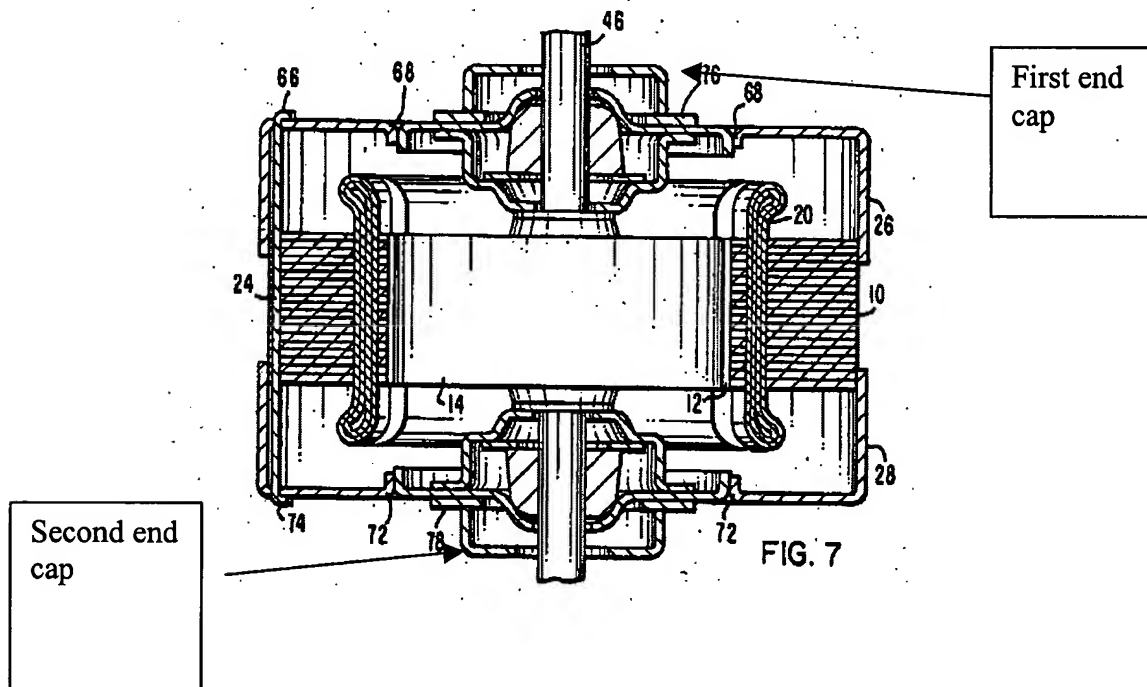
2. Claims 1-9, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald (US 4,603,273).

McDonald discloses invention as claimed: a stator including a stator core 10 having a generally cylindrical surface, a rotor 14, a first intermediate portion 26 partially covering the generally cylindrical surface of the stator, a first end cap coupled to the first intermediate portion, a second intermediate portion 28 partially covering the generally cylindrical surface of the stator and being spaced from the first intermediate portion, a

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second end cap coupled to the second intermediate portion, a fastener 24 coupling the first and second intermediate portions and the first and second end caps, a tab 40 with aperture, an aperture 38, a strap 24.

Re claim 8, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.



### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 14-24, 26-28, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald (US 4,603,273).

McDonald discloses assembly essentially as claimed. However, McDonald does not disclose the second housing portion including the second tab.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the assembly as taught by McDonald and to provide the second housing portion with the second tab for the purpose of supporting the assembly from both ends since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Re claim 20, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Re claims 26-28, 32, McDonald disclose the assembly essentially as claimed. Claims 26-28 that merely recite connecting and using the disclosed features together are inherent to the disclosed structure.

#### ***Double Patenting***

5. Claim 32 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 27. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Allowable Subject Matter***

6. Claims 10, 11, 25, 29-31, 33, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claims 10 and 11, the feature of the fastener coupling the first and second end caps wherein the fastener is disposed within the tab aperture, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 10 and 11, the feature of the fastener coupling the first and second end caps wherein the fastener is disposed within the tab aperture, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 25 and 29, the feature of the tab comprising a positioning tab abutting against the stator, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 30, 31, 33 and 34, the method of assembling an electric machine including steps of punching a first aperture to create the first tab and further punching a second aperture adjacent to create the second tab, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

***Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (571) 272-2037. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren E Schuberg can be reached on (571) 272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph Waks  
Primary Examiner  
Art Unit 2834

08/17/04